IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13572 of 2004

Between:

Mohd. Zaheer Ahmed, S/o. Mohd. Khasim,
R/o. Macherial, Mancherial Mandal, Adilabad District.

...PETITIONER

AND

1. The Principal Secretary, Govt. of A.P., Revenue Department, Secretariat, Hyderabad.
2. The Inspector General, Registration and Stamps, Government of Andhra Pradesh, Hyderabad.
3. The Sub Registrar, Mancherial, Adilabad District.
4. Katikaneni Venkateshwar Rao, S/o. K. Papa Rao,
   R/o. Ayannapalem, Bollapalli Mandal, Guntur District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or direction preferably a writ in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in accepting the document bearing No. 6702/2003 presented by the 4th respondent and registering the same without the affixation of passport size photograph and fingerprints of the petitioner, as being illegal, arbitrary and violation of Sec.32-A of the Registration Act, 1908 and consequently direct the 3rd respondent to cancel the registered document No.

6702/2003 forthwith.

Counsel for the Petitioner: MR.V.SUBRAHMANYAM

Counsel for the Respondents:

The Court made the following:

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ORDER:

The petitioner alleges that he purchased agriculture dry land admeasuring Acs.2.00 in Survey No.328 of Garmilla village, Mancherial Mandal in Adilabad District from the fourth respondent herein under registered document bearing No.4923 of 2003 dated 27.03.2003. It appears that subsequently the fourth respondent submitted a cancellation deed to the third respondent (Registering Authority), which was accordingly registered as Document No.6702 of 2003 dated 18.11.2003. Be it noted by reason of deed of cancellation, dated 18.11.2003, the fourth respondent cancelled the deed of agreement of sale-cum-General Power of Attorney made in favour of the petitioner. Be it also noted, a perusal of deed of cancellation would show that the fourth respondent allege that he was induced to execute the deed of agreement of sale-cum-General Power of Attorney in respect of the land and that the fourth respondent has got two brothers to get equal rights in the said land and those brothers refused to give consent and concurrence for the deed of agreement.

In this Writ Petition, the petitioner assails the action of the third respondent in accepting the document No.6702 of 2003. It is contended that as per Section 32A of the Registration act, 1908 ('the Act' for brevity), it is mandatory for the third respondent to affix passport size photographs and finger prints of buyer and seller, whereas the cancellation deed does not contain the photograph of the petitioner. Therefore, a direction is sought to third respondent to cancel document No.6702 of 2003.

The question whether the Registering Authority can cancel a registered document was considered by me in ***Property Association of Baptist Churches v. Sub-Registrar, Jangaon, Warangal***. Having regard to the provisions of the Act and A.P.Registration Rules, 1908, it was held there in para 4 as under.

A reading of the above provisions would show that the power of the registering officer is limited to enquire into the validity of the document brought to him for registration or to enquire into any written or verbal protest against the registration of a document based on the ground that the executing party has no right to execute the document. The limited power of the registering officer to enquire into objections that the executing party had no right to execute document get extinguished the moment the document is registered. No such power inheres in the registering officer or the district Registrar to cancel the sale deed, unless another document for cancellation is presented with proper stamp duty and registration charges. A party aggrieved by a registered document on conveyance has to file civil suit seeking appropriate declaration under Section 34 of the Specific Relief Act, read with Article 59 of the Schedule under the Limitation Act, 1963 (Act 36 of 1963). The writ petition is not a proper remedy.

Further in this case what was executed in favour of the petitioner was originally is an agreement of sale-cum-General Power of Attorney and the same was cancelled by subsequent cancellation deed. When a person executes GPA in favour of other person authorizing the Power of Attorney holder to deal with the property, the executant has always power to cancel the GPA. A reading of Section 32A of the Act would also shows that the requirement of affixing photographs is only in relation to the transfer of ownership of the immovable property. When a registered power of attorney is cancelled by the executant *prima facie* proviso to sub-section (1) of Section 32A of the Act attracts. If the person is aggrieved, he has to file a suit for declaration of title or otherwise. The Writ Petition is not a proper remedy. As and when the petitioner files any suit, the Civil Court shall decide the matter without in any manner being influenced by the observations made herein above.

The Writ Petition, with the above observations, is dismissed.

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(V.V.S.RAO, J)

3rd August 2004

RRB

Copies to:

1. The Principal Secretary, Govt. of A.P., Revenue Department, Secretariat, Hyderabad.
2. The Inspector General, Registration and Stamps, Government of Andhra Pradesh, Hyderabad.
3. The Sub Registrar, Mancherial, Adilabad District.
4. Two CD copies.